

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. CR 09-2371 MCA

PEDRO ALONSO PEREZ-LECHUGA,

Defendant.

MEMORANDUM OPINION AND ORDER


This matter is before the Court on Defendant's Motion for Back Time Credit (CR Doc. 52). Defendant seeks an order modifying his sentence or correcting the BOP's application of jail-time credit against his sentence. The Court will deny the motion.

The motion must be denied for either of two reasons. First, this Court "does not have inherent authority to modify a previously imposed sentence; it may do so only pursuant to statutory authorization." *United States v. Mendoza*, 118 F.3d 707, 709 (10th Cir. 1997) (citing *United States v. Blackwell*, 81 F.3d 945, 947-48, 949 (10th Cir. 1996)). No such statutory authority is presented in Defendant's motion.

Second, even if the Court were to grant credit for prior custody against the term of imprisonment, Defendant's post-conviction custodian--the Attorney General or Bureau of Prisons (ABOP@)--would not be bound by the calculation. The United States Attorney General, through the BOP, has the responsibility of administering a federal sentence, including computation of credit for pretrial incarceration. *See United States v. Jenkins*, 38 F.3d 1143, 1144 (10th Cir. 1994) ("only the Attorney General through the Bureau of Prisons has the power to grant sentence credit")

(citing *United States v. Wilson*, 503 U.S. 329, 333, 337 (1992)). The district court in the district where Defendant is confined has jurisdiction under 28 U.S.C. § 2241 to review the computation of his sentence, after exhaustion of the BOP's administrative remedies. See *Wilson*, 503 U.S. at 335-36; *Bennett v. United States Parole Comm'n*, 83 F.3d 324, 328 (10th Cir. 1996). Because the Court has no authority to modify Defendant's sentence and the requested credit cannot be effectively granted, the motion will be denied.

IT IS THEREFORE ORDERED that Defendant's Motion for Back Time Credit (CR Doc. 52) is DENIED; and the Clerk is directed to mail a copy of this Order to Defendant at the address indicated in the motion.


UNITED STATES DISTRICT JUDGE